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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/016,905	12/14/2001	Michael Von der Geest	3107-237	9583
7590	10/04/2004		EXAMINER	
Lewis F. Gould, Jr. Duane Morris LLP One Liberty Place Philadelphia, PA 19103-7396			HARRIS, CHANDA L	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/016,905	Applicant(s) VON DER GEEST ET AL.
	Examiner Chanda L. Harris	Art Unit 3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 and 31-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 13, 17, 18, 25-29, 31-38, 43, 45 and 48-74 is/are rejected.
- 7) ☒ Claim(s) 5-12, 14-16, 19-24, 39-42, 44, 46, 47 and 75 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

In response to Applicant's Remarks filed 6/23/04, Claims 1-29 and 31-75 are pending.

Claim 30 is cancelled.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 53-69 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A signal per se is nonstatutory subject matter. See, for example, MPEP 2106 IV.B.I (c). A signal has no tangible structure and is not within any of the four categories of invention. On the other hand, electrical signals may well be properly claimed in an otherwise statutory method or apparatus, but where a process merely manipulates signals representing numbers, it would be nonstatutory. See MPEP 2106 IV.B.I. For an example of a claim that manipulates signals in a way that achieves a practical application and has real world value, see the method claim reproduced in *Arrhythmia Research Technology Inc. v. Corazonix Corp.*, 22USPQ2d 1033 (Fed. Cir. 1992)

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 13, 17-18, 25-29, 31-38, 43, 45, 48-52, 70-74 are rejected under 35

U.S.C. 102(e) as being anticipated by Orton et al. (US 2003/0046265).

1. [Claims 1, 27-29, 33-37, 49-52, 70]: Regarding Claims 1, 27-29, 33-37, 49-52, and 70, Orton discloses receiving with a computer processor unit evaluation data for said environment received from at least one individual participating in said environment (i.e., recipient). See p.6, [0083]. Orton discloses said evaluation data representing impressions of said individual regarding said environment (i.e., what he/she believes the working environment should be with respect to each element). See p.6, [0083]. Orton discloses providing model data to an individual responsible at least in part for said environment, said model data representing one or more dimensions (i.e., action item listing of required, recommended, and user-requested activities) of said environment, said model data developed at least in part from said evaluation data, each of said one or more dimensions being associated with at least one characteristic (i.e., competency) of said individual responsible for said environment; receiving with a computer processor

unit a selection of at least one of said one or more dimensions of said environment received from said individual responsible for said environment (i.e., This personalized training plan is presented to the user for implementation); and providing said individual responsible for said environment an action plan (i.e., action item listing) for improving at least one characteristic associated with said selected dimension. See Abstract, p.4, [0035], and p.5, [0066]-[0069], [0071]-[0074].

2. [Claims 2,71]: Regarding Claims 2 and 71, Orton discloses the step of receiving evaluation data for said environment from said individual that is responsible at least in part for said environment, said evaluation data representing an impression of said individual regarding said environment. See p.4, [0036].

3. [Claims 3,38]: Regarding Claims 3 and 38, Orton discloses said environment is a classroom teaching environment (i.e., working environment), said at least one individual participating in said environment includes a first a plurality of students (i.e., survey recipients), and said individual responsible for said environment is a classroom teacher (i.e., trainee). See p.6, [0083].

4. [Claim 4]: Regarding Claim 4, Orton discloses the step of receiving from said classroom teacher a designation of said first plurality of students participating in said classroom teaching environment, said first plurality of students being designated to provide said evaluation data. See p.4, [0035].

5. [Claims 13,43]: Regarding Claims 13 and 43, Orton discloses wherein said evaluation data received from said at least one individual participating in said environment identify a perception of a current state of said environment and an

indication of an ideal state of environment. See p.6, [0083]. It is Examiner's position that in indicating what he/she believes the working environment should be, the survey recipient is inherently identifying a perception of a current state of said environment.

6. [Claims 17,45]: Regarding Claims 17 and 45, Orton discloses said environment is a school environment (i.e., working environment), said at least one individual participating in said environment includes a first plurality of employees (i.e., survey recipients), and said individual responsible for said environment is a head teacher (i.e., trainee). See p.6, [0083].

7. [Claim 18]: Regarding Claim 18, Orton discloses the step of receiving from said head teacher a designation of said first plurality of employees participating in said school environment, said first plurality of employees being designated to provide said evaluation data. See p.4, [0035].

8. [Claims 25, 31, 48, 73]: Regarding Claims 25, 31, 48, and 73, Orton discloses wherein said evaluation data received from said at least one individual participating in said environment include first leadership style data, said first leadership style data identifying a perception of the use of a plurality of different leadership styles by said individual that is responsible for said environment. See p.5, [0071]. Orton discloses said evaluation data received from said individual that is responsible at least in part for said environment include second leadership style data identifying a perception by said individual that is responsible at least in part for said environment of the use of said plurality of different leadership styles by said individual that is responsible for said environment. See p.5, [0073].

9. [Claims 26, 32,72,74]: Regarding Claims 26, 32,72, and 74, Orton discloses further comprising the step of providing model data, said leadership model data representing usage of a plurality of leadership styles by said individual that is responsible for said environment, said leadership model data being developed at least in part from said first leadership style data and second leadership style data. See p.5, [0066], [0068] and p.6, [0083] and [0085].

Allowable Subject Matter

Claims 5-12, 14-16, 19-24, 39-42, 44, 46-47, and 75 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments


Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection. See rejection above. This action is made NON-FINAL.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 703-308-8358. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Chanda L. Harris
Examiner
Art Unit 3714

ch.